



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0623]

RIN 1625-AA00

Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Coastal Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary moving safety zone around M/V ZHEN HUA 24 during its transit through certain waters of the Chesapeake Bay and Coastal Virginia. This action is necessary to provide for the safety of life on these navigable waters during the movement of the M/V ZHEN HUA 24 while it is transporting four new Super-Post Panamax container cranes to the Port of Baltimore, anticipated to arrive between September 4, 2021, and September 29, 2021. The Captain of the Port Virginia has determined that limited maneuverability and unique cargo of this vessel are potential hazardous to any person or vessel within the proposed safety zone. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Virginia or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE **10** DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2021-

0623 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Ashley Holm, Sector Virginia Waterways Management division, U.S. Coast Guard; telephone 757-668-5581, email VirginiaWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
CBBT	Chesapeake Bay Bridge-Tunnel
COTP	Captain of the Port

II. Background, Purpose, and Legal Basis

On June 28, 2021, Ports America Chesapeake, LLC notified the Coast Guard that the M/V ZHEN HUA 24 will be transporting four new Super-Post Panamax container cranes to the Port of Baltimore. The vessel transit is taking place from Shanghai, China. The M/V ZHEN HUA 24 is anticipated to arrive between September 4, 2021, and September 29, 2021. The current estimated arrival date is September 5, 2021, but is subject to change. These cranes will be delivered to, and installed at, the Seagirt Marine Terminal at Baltimore, MD.

The cranes exceed the beam of the M/V ZHEN HUA 24 on the port side by approximately 129 feet and on the starboard side by approximately 40 feet. The total beam for the vessel with the cranes aboard is approximately 300 feet. The maximum height of the cranes aboard the vessel is approximately 326 feet. This beam width and cargo height will severely restrict the M/V ZHEN HUA 24’s ability to maneuver and

create a hazard to navigation if required to meet or pass other large vessels transiting the navigation channels. Because of the size of the cargo and the width of the navigation channels, vessels will not be able to transit safely around the M/V ZHEN HUA 24 at close distances. During the inbound transit of the M/V ZHEN HUA 24 the vessel will travel from sea into the Chesapeake Bay, crossing the Chesapeake Bay Bridge-Tunnel (CBBT) and then proceeding north toward Baltimore. During this time safety concerns will be heightened due to the importance of CBBT and the Chesapeake's sensitive estuary environment. Hazards associated with the movement of a large freight vessel with an oversized cargo severely restricted in its ability to maneuver while transiting confined shipping channels include injury or loss of life and damage to property and the environment resulting from collisions with other vessels. The COTP Virginia has determined that potential hazards associated with the crane delivery operation would be a safety concern for any vessel required to transit the navigation channels in the Chesapeake Bay and Coastal Virginia that would meet, pass, or overtake the M/V ZHEN HUA 24. These hazards can be mitigated with a 500 yard radius safety zone around the vessel.

The Coast Guard is requesting that interested parties provide comments within a shortened comment period of 10 days instead of the typical 30 days for this notice of proposed rulemaking. The Coast Guard believes the 10-day comment period still provides for a reasonable amount of time for interested parties to review the proposal and provide informed comments on it while also ensuring that the Coast Guard has time to review and respond to any significant comments and has a final rule in effect in time for the scheduled event in order to protect against the identified hazards.

The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a temporary moving safety zone with a radius of 500 yards centered around the M/V ZHEN HUA 24 during the inbound transit through the territorial sea and the Chesapeake Bay to Baltimore, MD. The M/V ZHEN HUA 24 is currently anticipated to arrive at Baltimore sometime between September 4, 2021, and September 29, 2021. The current estimated arrival date is September 4, 2021, but is subject to change. The inbound transit is expected to last approximately 15 hours.

Enforcement of the safety zone would begin when M/V ZHEN HUA 24 crosses the 12-mile line into the US-Territorial Sea and end when the vessel crosses the Virginia-Maryland state line. This enforcement period would be broadcast to mariners via email, VHF-FM radio notifications, and by COTP representatives on scene.

The duration of the zone is intended to ensure the safety of vessels and protect the environment and critical national infrastructure such as the Chesapeake Bay bridge-tunnel during the vessels transit to Baltimore. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM

has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and duration of the safety zone, which would impact only vessel traffic required to transit certain navigation channels of the Chesapeake Bay and the Coastal Virginia for an expected total no more than 15 enforcement-hours. Although these waterways support both commercial and recreational vessel traffic, small portions of the waterway would be restricted for a small period of time as the M/V ZHEN HUA 24 transits northward in the Chesapeake Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this

proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary safety zone that would prohibit entry within certain navigable waters of the Chesapeake Bay and Coastal Virginia. Normally such actions are categorically excluded from further review under paragraph L60c of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for the Record supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will

consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2021-0623 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 1 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T05-0623 to read as follows:

§ 165.T05-0623 Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Coastal Virginia

(a) *Regulated Area.* The rule establishes the following regulated area as a temporary moving safety zone: All waters within a 500 yards radius of the M/V ZHEN HUA 24 during its inbound transit to Baltimore, MD. Inbound transit will begin when the M/V ZHEN HUA enters the U.S. Territorial Sea, as defined in 33 CFR 2.22(a)(1), and end when the vessel crosses the Virginia- Maryland State Line in the Chesapeake Bay, a line starting at a point 38° 01'36" N latitude, 75° 14'34" W longitude, then south east to a point 37° 19'14" N latitude, 72° 13'13" W longitude. These coordinates are based on WGS 84.

- (b) *Definitions.* As used in this section---

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Virginia.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Virginia (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at (757) 483-8567 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced during inbound transit of the M/V ZHEN HUA 24 through Coastal Virginia and Chesapeake Bay on the way to the Port of Baltimore.

Dated: August 6, 2021.

Jennifer A. Stockwell,
Captain, U.S. Coast Guard,
Alternate Captain of the Port Virginia